

Introduced by Senator Alpert

December 2, 2002

An act to amend Sections 17078.52, 17078.54, 17078.58, and 17078.62 of, and to repeal Section 17078.50 of, the Education Code, relating to education facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 15, as introduced, Alpert. School facilities.

Existing law declares that Article 12 (commencing with Section 17078.50) is a pilot program implemented to determine the optimum method for providing school facilities funding for charter schools.

Existing law provides for submission to the voters of the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 which would, in part, authorize the issuance of bonds for the purpose of funding K-12 school facilities, including, but not limited to, charter school facilities pursuant to the Leroy F. Greene School Facilities Act of 1998. Existing law also sets forth the manner of funding charter school facilities under the Kindergarten-University Public Education Facilities Bond Act of 2002 including, among other provisions, that the State Allocation Board and the California School Finance Authority provide funding for charter school facilities pursuant to that act.

This bill would repeal the provision declaring Article 12 (commencing with Section 17078.50) to be a pilot program.

This bill would set forth the manner of funding charter school facilities under the Kindergarten-University Public Education Facilities Bond Act of 2004 including, among other provisions, that the State Allocation Board and the California School Finance Authority provide funding for charter school facilities projects.

The bill would make technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17078.50 of the Education Code is
2 repealed.

3 ~~17078.50. (a) It is the intent of the Legislature that this article~~
4 ~~be implemented as a pilot program to determine the optimum~~
5 ~~method for providing school facilities funding for charter schools.~~

6 ~~(b) This article shall apply only to projects that are funded from~~
7 ~~the proceeds of bonds authorized pursuant to subparagraph (A) of~~
8 ~~paragraph (1) of subdivision (a) of Section 100620, if approved by~~
9 ~~the voters.~~

10 ~~(c) The State Allocation Board and the California School~~
11 ~~Finance Authority shall jointly report to the Legislature by July 1,~~
12 ~~2003, regarding all of the following:~~

13 ~~(1) The implementation of this article, including, but not~~
14 ~~limited to, a description of the projects funded pursuant to this~~
15 ~~article.~~

16 ~~(2) A description of the process whereby the board provides~~
17 ~~funding for charter school facilities under provisions of this~~
18 ~~chapter other than this article.~~

19 ~~(3) Recommendations, if any, regarding statutory changes~~
20 ~~needed to facilitate and streamline the process.~~

21 ~~(d) The Legislature intends to consider the report pursuant to~~
22 ~~subdivision (c) when determining the best mechanism for~~
23 ~~providing future state financial assistance for charter school~~
24 ~~facilities, including, but not limited to, assistance funded with the~~
25 ~~proceeds of the state bonds authorized pursuant to subparagraph~~
26 ~~(A) of paragraph (1) of subdivision (a) of Section 100820.~~

27 SEC. 2. Section 17078.52 of the Education Code is amended
28 to read:

29 17078.52. (a) There is hereby established the Charter
30 Schools Facilities Program to provide funding to qualifying
31 entities for the purpose of establishing school facilities for charter
32 school pupils.

33 (b) The 2002 Charter School Facilities Account is hereby
34 established within the 2002 State School Facilities Fund

established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, ~~as set forth in Chapter 33 of the Statutes of 2002, if approved by the voters,~~ shall be deposited into the 2002 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(c) *The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.*

(d) As used in this article, the following terms have the following meanings:

(1) “Authority” means the California School Finance Authority established pursuant to Section 17172.

(2) “Account” means the 2002 Charter School Facilities Account established within the 2002 State School Facilities Fund pursuant subdivision (b) *or the 2004 Charter School Facilities Account established within the 2004 State School Facilities Fund pursuant to subdivision (c).*

(3) “Preliminary apportionment” means an apportionment made for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Sections 17078.22 to 17078.30, inclusive.

(4) “Financially sound” means a charter school that has demonstrated, over a period of time determined by the authority, but not less than ~~than~~ 24 months immediately preceding the submission of the application, that it is a financially capable concern, as measured by criteria established by the authority.

(d)

1 (e) The ~~board~~ *State Allocation Board* shall, from time to time,
2 transfer funds within the account to the California School Finance
3 Authority Fund for the purposes of this article pursuant to the
4 request of the authority as set forth in this article.

5 SEC. 3. Section 17078.54 of the Education Code is amended
6 to read:

7 17078.54. (a) An eligible project under this article shall
8 include funding, as permitted by this chapter, for new construction
9 of a school facility for charter school pupils, as set forth in this
10 article. A new construction project may include, but is not limited
11 to, the cost of purchasing and retrofitting an existing building, but
12 ~~shall~~ *may* not exceed the amounts set forth in subdivision (b).

13 (b) The maximum amount of the funding pursuant to this
14 article shall be determined by calculating the charter school's
15 per-pupil grant amount plus other allowable costs as set forth in
16 this chapter. Funding shall be provided by the authority for new
17 facility construction as set forth in Section 17078.58.

18 (c) To be funded under this article, a project shall comply with
19 all of the following:

20 (1) (A) It shall meet all the requirements regarding public
21 school construction, plan approvals, toxic substance review, site
22 selection, and site approval, as would any noncharter school
23 project of a school district under this chapter, including, but not
24 limited to, regulations adopted by the State Architect pursuant to
25 Section 17280.5 relating to the retrofitting of existing buildings,
26 as applicable.

27 (B) Notwithstanding any provision of law to the contrary,
28 including, but not limited to subparagraph (A), the board, after
29 consulting with the relevant regulatory agencies, shall, to the
30 extent feasible, adopt regulations establishing a process for
31 projects to be subject to a streamlined method for obtaining
32 regulatory approvals for all requirements described in
33 subparagraph (A), except for the requirements of the Field Act as
34 defined in Section 17281 which shall be complied within the same
35 manner as any other project under this chapter.

36 (2) It shall fund only new construction to be physically located
37 within the geographical jurisdiction of a school district that has
38 demonstrated construction grant eligibility as determined
39 pursuant to Section 17072.10, and subdivision (e) of Section

1 17078.53, for at least the number of pupils set forth in the per-pupil
2 grant request contained in the application.

3 (d) Facilities funded pursuant to this article shall have a 50
4 percent local share matching obligation that may be paid by the
5 applicant through lease payments in lieu of the matching share, or
6 as otherwise set forth in this article, including, but not limited to,
7 Section 17078.58.

8 (e) The authority may charge its administrative costs against
9 the *respective 2002 or 2004 Charter School Facilities Account*,
10 which shall be subject to the approval of the Department of
11 Finance and which ~~shall~~ *may* not exceed 2.5 percent of the
12 account.

13 SEC. 4. Section 17078.58 of the Education Code is amended
14 to read:

15 17078.58. (a) Funding granted pursuant to this article may
16 not exceed 100 percent of the total allowable project costs as
17 determined by calculating double the per-pupil grant eligibility as
18 set forth in Section 17072.10, and subdivision (e) of Section
19 17078.53, plus 100 percent of all other allowable construction
20 project costs, as appropriate to the project, that would otherwise
21 be available to school district projects as set forth in this chapter.

22 (b) The local share equivalent shall be collected in the form of
23 lease payments or otherwise as set forth in this article.

24 (c) Lease payments in lieu of local share payments, and any
25 other local share payments made pursuant to this article, shall be
26 made to the State Allocation Board for deposit into the ~~account~~
27 *respective 2002 or 2004 Charter School Facilities Account*. Funds
28 deposited into the account pursuant to this section may be used by
29 the board only for a purpose related to charter school facilities
30 pursuant to this article.

31 SEC. 5. Section 17078.62 of the Education Code is amended
32 to read:

33 17078.62. (a) As a first priority, the existing charter school
34 shall be permitted to continue to use the facility until it is no longer
35 needed by the charter school for charter school purposes.

36 (b) If the charter school occupying a facility funded pursuant
37 to this article ceases to utilize the facility for a charter school
38 purpose, all of the following apply:

39 (1) If the charter school is no longer using the facility because
40 the school district in which the charter school is located has

1 revoked or declined to renew the charter, the school district, as a
2 necessary component of the first priority established in
3 subdivision (a), shall not immediately occupy the facility, but shall
4 allow a reasonable time, not to exceed six months, for completion
5 of the review process contemplated in Section 47607 or 47607.5.

6 (2) As a second priority, any qualifying successor charter
7 school shall be permitted to meet its facility needs by occupying
8 the facility on equal terms as the prior charter school occupant.

9 (3) As a third priority, the school district in which the charter
10 school is physically located may notify the authority and take
11 possession of the facility and make the facility available for
12 continued use as a public school facility.

13 (4) If the school district in which the charter school is
14 physically located elects to take possession of a facility pursuant
15 to paragraph (3), it shall pay the balance of the unpaid local
16 matching share or demonstrate that it is willing and able to
17 continue to make the lease payments in lieu of the local matching
18 share on the same terms. However, the payments shall be reduced
19 or eliminated, as appropriate, if the school district complies with
20 all of the following:

21 (A) It demonstrates that it would have been eligible for
22 hardship funding under Article 8 (commencing with Section
23 17075.10) at the time that the application for funding the facility
24 under this article was originally submitted.

25 (B) It certifies to the board that it will utilize the facilities for
26 public school purposes for a period of at least five years from the
27 date that it occupies the facility.

28 (5) If the school district declines to take possession pursuant to
29 paragraph (3), or if the facility is subsequently no longer needed
30 for public school purposes, the school district shall dispose of the
31 facilities in a manner otherwise applicable to the disposal of
32 surplus public schoolsites. Any unpaid local matching share shall
33 be paid from the net proceeds, if any, of the disposition and shall
34 be deposited into the ~~account~~ *respective 2002 or 2004 Charter*
35 *School Facilities Account*. To the extent that funds remain from the
36 proceeds of the disposition after repayment of the local matching
37 share, any security interest granted to a person or entity pursuant
38 to subparagraph (B) of paragraph (3) of subdivision (a) of Section
39 17078.57 shall be satisfied.

1 (6) If the lease payments in lieu of the local matching share are
2 fully paid, the school district shall continue to hold title to the
3 facility, in trust, for the benefit of the state public school system.
4 The school district shall permit continued use of the facility for
5 charter school purposes as long as the facility is needed for those
6 purposes.

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